

N.D.A.G. Letter to Slorby (Sep. 25, 1985)

September 25, 1985

Mr. Tom P. Slorby
Ward County State's Attorney
Ward County Courthouse
Minot, ND 58701

Dear Mr. Slorby:

Thank you for your letter wherein you inquire whether the Ward County Board of Commissioners can levy a property tax for use by the Minot Area Development Corporation to pay delinquent taxes and special assessments on properties acquired by the corporation in an effort to promote industrial development.

As you know, the 1985 Legislative Assembly enacted legislation which authorized a board of county commissioners to create a job development authority for the county. 1985 N.D. Sess. Laws, 161, §§1 to 6. This legislation has been codified as N.D.C.C. Ch. 11-11.1

The duty of a job development authority is to "use its financial and other resources to encourage and assist in the development of employment within the county." N.D.C.C. §11-11.1-03.

Instead of creating a job development authority, a board of county commissioners may enter into a contract for these same services with an industrial development organization. N.D.C.C. §11-11.1-06 provides as follows:

11-11.1-06. ALTERNATIVE LEVY FOR INDUSTRIAL DEVELOPMENT ORGANIZATIONS. In lieu of establishing a job development authority as provided in sections 11-11.1-01 through 11-11.1-05, the board of county commissioners in a county where an active industrial development organization exists may levy a tax not exceeding the limitation in subsection 29 of section 57-15-06.7. The funds from the levy may be used to enter into a contract with the industrial development organization for performance of the functions of a job development authority as provided in sections 11-11.1-01 through 11-11.1-05. (Emphasis supplied)

A review of the legislative history supports the stated purpose of the legislation by indicating the general need to develop employment opportunities in North Dakota. However, no testimony is directed to the subject of whether tax revenue raised under this legislation could be used by an industrial development corporation to pay real estate taxes and special assessments.

Therefore, it becomes a policy matter and the Ward County Board of Commissioners must make the factual determination of whether such use of tax revenue will "encourage and assist in the development of employment within the county." N.D.C.C. §11-11.1-03.

If you wish to discuss this matter further, please do not hesitate to contact me.

Sincerely,

Nicholas J. Spaeth

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